

## **REMARKS**

Reconsideration of this application, as amended, is respectfully requested.

Claims 1-12 are pending. Claims 1-12 stand rejected.

Claims 1 and 7 have been amended. No claims have been canceled. No claims have been added. Support for the amendments is found in the specification, the drawings, and in the claims as originally filed. Applicant submits that the amendments do not add new matter.

### **Claim Rejections**

Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of co-pending Application No. 10/038,894. The Examiner indicated that a terminal disclaimer would overcome the double patenting rejection.

In this response, Applicant has submitted a timely filed terminal disclaimer and a check for the disclaimer fee.

Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of co-pending Application No. 10/040,606. The Examiner indicated that a terminal disclaimer would overcome the double patenting rejection.

In this response, Applicant has submitted a timely filed terminal disclaimer and a check for the disclaimer fee.

### **Rejections Under 35 U.S.C. § 101**

The Examiner has rejected claims 1-6 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner stated that

The language of independent claim 1 raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a useful, concrete and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Applicant here has amended claim 1 to overcome the Examiner's rejection.

### **Rejections Under 35 U.S.C. § 112**

The Examiner has rejected claims 1-6 under 35 U.S.C. §112, first paragraph. The Examiner stated that

Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

(Office Action, p. 5, 06/13/05)

Claims 1-6 stand rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. The Examiner stated that

The omitted elements are computer hardware necessary to execute the claimed software and render the invention operable.

(Office Action, p.6, 06/13/05).

Applicant here has amended claim 1 to overcome the Examiner's rejection.

### **Rejections Under 35 U.S.C. § 103**

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abbondanzio et al., of U.S. Patent No. 5,890,011 ("Abbondanzio"), in view of Sankaranarayan et al. of U.S. Patent No. 6,799,208 ("Sankaranarayan").

Applicant has amended claim 1 to indicate that parent resource objects represent resource producers that include physical and virtual resources.

The Examiner stated that "Abbondanzio does not teach parent resource objects represent virtual resources". (Office Action, p. 6, 6/13/05)

Additionally, Abbondanzio does not disclose parent resource objects representing resource producers that include virtual resources, as claimed in amended claim 1.

Sankaranarayan discloses resource descriptors that describe resources required to perform an activity by a resource consumer. The resource descriptors are organized as a tree to represent any inherent reliance among the resources. Importantly, Sankaranarayan discloses

In the tree metaphor, the configuration 124 can be thought of as the root of the descriptor tree. In FIG. 2, there are four resource descriptors 126 in the first configuration 124(1) that are organized in a tree. The tree contains two side-by-side sibling nodes R.sub.2 and R.sub.4 to represent that the resources provided by the corresponding resource providers are both required to perform the requested task. A child node R.sub.3 branches from descriptor R.sub.4 to indicate that the provider referenced by R.sub.4 is a consumer of the resource referenced by descriptor R.sub.3. Similarly, node R.sub.1 branches from descriptor R.sub.3 to indicate that the provider referenced by R.sub.3 is a consumer of the resource referenced by descriptor R.sub.1.

(Sankaranarayan, col. 10, lines 17-28) (emphasis added)

Thus, Sankaranarayan discloses a child node, which is a provider of the resource, and a parent node, which is a resource consumer, in contrast to parent resource objects representing resource producers, as recited in amended claim 1. As such, Sankaranarayan, similarly to Abbondanzio, fails to disclose the limitations of amended claim 1 of parent resource objects representing resource producers that include physical and virtual resources.

Thus, neither Abbondanzio, nor Sankaranarayan discloses, teaches, or suggests such the limitations of amended claim 1.

It is respectfully submitted that Abbondanzio does not teach or suggest a combination with Sankaranarayan and Sankaranarayan does not teach or suggest a combination with Abbondanzio. Furthermore, it is respectfully submitted that if the bandwidth resource (child resource object) of Sankaranarayan were included in the parent resource objects of Abbondanzio, as the Examiner suggested, the parent-child relationship between objects in Sankaranarayan will be ruined, and the Sankaranarayan's invention will not operate.

Therefore, Applicant respectfully submits that amended claim 1 is not obvious under 35 U.S.C. § 103 (a) over Abbondanzio in view of Sankaranarayan.

Given that amended independent claim 7 contains at least the discussed above limitations of amended claim 1, Applicant respectfully submits that claim 7 is likewise not obvious under 35 U.S.C. § 103 (a) over Abbondanzio in view of Sankaranarayan.

Given that claims 2-6, and 8-12 depend from amended independent claims 1 and 7 and add additional limitations, Applicant respectfully submits that claims 2-6, and 8-12 are likewise not obvious under 35 U.S.C. § 103 (a) over Abbondanzio in view of Sankaranarayan.

It is respectfully submitted that in view of the amendments and arguments set forth herein, the applicable rejections and objections have been overcome. If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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